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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/691,409	10/18/2000	Jaime A Siegel	SNY-N3422	3951

24337 7590 10/24/2002

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH, NC 27606

EXAMINER

TAYLOR, LARRY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 10/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/691,409

Applicant(s)

SIEGEL, JAIME A

Examiner

Larry D Taylor

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1 ☐ Certified copies of the priority documents have been received.
- 2 ☐ Certified copies of the priority documents have been received in Application No. _____.
- 3 ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Receipt of Amendment

1. Receipt is acknowledged of the amendment filed 30 July 2002.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, 8, 10, 12-19, 21, 23-26, 28, and 30-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kleiman (US 5,959,945).

Kleiman teaches a content player jukebox IT, comprising in combination: a memory which stores content, possibly a magnetic disk CM3 (see figure 1); a playback credit bank 212 stored in the player; and a method of playing the content for consumption by a user, providing the credit bank has ample playback credit, and deducting credit when content is played.

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evidencing that there is circuitry present to perform such (see figure 7). The credit bank may be replenished by communication with smart card (col. 9, lines 3-6). The user may communicate with a service center, the center acting as a vendor, in that the smart card may be used to purchase credits via communication link, where the credits can then be transferred to the credit bank of the content player for usage (col. 14, lines 9-24). The link may be wireless or through modem (Internet) access. The credits are transferred in the form of certificates, which are decrypted before storage (col. 14, lines 18-29). The service centers are stand-alone facilities, which would wholly include the realm of stand-alone transaction housings, terminals, kiosks, etc.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-7, 20, 27, 34-41, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman.

The teachings of Kleiman have been discussed above.

Kleiman teaches that menus are provided on a display of content player IT, wherein what songs present in the player are shown. Being that the player is driven by credits accrued, it would have been obvious to one of ordinary skill in the art to have the available credits to be used in the player shown on such a screen, or rather the status of the credits within the player system. While it is not specifically taught, it would have been known to include such as it would

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obviously provide user convenience and expedience in purchasing and using credits for content playback.

Kleiman also fails to teach both the content and credits to be stored in a storage medium. It would have been obvious to one of ordinary skill in the art to provide such a combination, as it would reduce the number of storage mediums necessary to fully operate the content player. The user could conveniently perform all operational tasks using one card (purchasing of credit, accrual of content, transferal of content, etc.), adding to customer satisfaction.

6. Claims 9, 11, 22, 29, 42, and 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman, in view of Abecassis (US 6,192,340 B1, of record).

The teachings of Kleiman have been discussed above.

However, Kleiman fails to teach the content presented on a stick memory device and the content player as being portable.

Abecassis teaches a music player 100 that contains memory for storing playback music and credits, the credits deducted when listening to the music. Figure 2 shows that the device, now 200, may be portable. Column 6, lines 10+ discuss the use of different media to allow a user access to the player, those media including a cartridge, magnetic credit card, or Memory Stick.

It would have been obvious to one of ordinary skill in the art to provide such a player as portable, as portable players, such as MP3 or CD players, are notoriously well-known to allow convenience for user to carry the player anywhere he/she chooses for enjoyment, rather than just be confined to enjoy such a device in his/her home or office.

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Having a Memory Stick in place of a regular credit card or other storage card is a well-known, art-recognized equivalent in the industry. Stick type devices, such as Memory Sticks, are known to be used in modern industry as they enable the user to carry a substantially large amount of data or information. Thus, such a replacement would have been obvious to one of ordinary skill in the art to incorporate.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 12, 18, 25, 34, and 45 have been considered but are moot in view of the new ground(s) of rejection.

The Examiner submits that the teaching of Kleiman (as partially in combination with Abecassis) fully meet the limitations of the existing claims. The Examiner would also like to note the limitation of playing the content "providing the credit bank contains at least one playback credit". The art of Kleiman shows that content is played when ample credits are available, not necessarily just one, but however many credits that are required to play a desired article of content. The office finds that this is not reasonably different from the application that, in both cases, credits for playback are required in storage. Some content may require one credit, while other may require five credits. Thus, Kleiman is submitted as suitable grounds of rejection.

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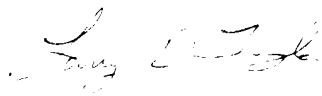
Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Curtin (US 5,986,200), Kaganas et al. (US 6,425,018 B1), and Frank (US 5,742,893).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D Taylor whose telephone number is (703) 306-5867. The examiner can normally be reached on M-F (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703)-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-746-4784 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Larry D Taylor
October 21, 2002



MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
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